

**BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION**

MARIAN G. WARD

Claimant

VS.

WESLEY MEDICAL CENTER

Respondent

AND

TRANSPORTATION INSURANCE COMPANY

Insurance Carrier

Docket No. 245,609

ORDER

Respondent appeals from a preliminary hearing Order entered by Administrative Law Judge John D. Clark on August 5, 1999.

ISSUES

The Administrative Law Judge ordered respondent to provide medical treatment and to pay temporary total disability benefits after claimant testified to neck pain and headaches which claimant attributes to her employment. On appeal, respondent contends the evidence does not meet claimant's burden of proving that she suffered accidental injury arising out of and in the course of her employment with respondent.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record and considering the arguments, the Appeals Board concludes the Order should be affirmed.

Claimant, whose duties included transferring patients, testified that on approximately June 19, 1999, she began experiencing neck pain and then headache. She went to the Via Christi Emergency Room where the physician took her off work for a few days. Claimant then returned to work and continued to have the same problems with headaches and pain in her neck into her shoulders. Claimant went to Dr. Douglas W. Haynes and by July 14, 1999, underwent an MRI. Claimant testified the MRI showed three bulging discs. The MRI test report refers to bulges at three levels but concludes there were no focal disc herniations or spinal stenosis.

Respondent contends claimant has failed to prove that she suffered accidental injury arising out of and in the course of her employment. The Board disagrees. Respondent focuses

its argument on the migraine headache and argues claimant has not shown a causal connection between the work and the headache. The Board concludes the evidence indicates the headache is secondary to a neck sprain and the neck sprain has been aggravated by the work claimant does for respondent.

Respondent contends the treatment records show Dr. Haynes was not able to determine whether the headaches caused the neck pain or vice versa. The records do mention both possibilities. But it appears Dr. Haynes ultimately concluded the headache is secondary to an acute strain of the neck. On July 1, 1999, Dr. Haynes suggested the headache had caused neck tension and pain. At the time of the examination on July 9, Dr. Haynes stated the reverse conclusion. He stated his impression that claimant has either an acute strain, nerve root compression, or inflamed disc at the C6 level. He also concluded the headaches are likely caused by the neck condition: "I believe the headache is precipitated by the neck pain, and the resolution of the neck pain is the key to controlling the patient's headaches. . . . I believe the neck pain is most likely secondary to an acute strain."

Again, on July 22, 1999, Dr. Haynes states "[t]he headaches I believe again are related to the neck pain and there is probably a tension component although they seem migrainous in nature." The Board concludes the neck injury more probably than not contributes to the headaches.

The additional question is whether the neck injury was caused by claimant's work. On this question, the Board relies on the testimony of claimant, which associates the neck pain with the work, and the opinion of Dr. Haynes. Dr. Haynes states that the work would aggravate claimant's neck condition. Even though it appears possible he is referring to a potential future aggravation if claimant returns to work, the opinion, nevertheless, indicates claimant's work activities were competent as a cause of aggravation. Based on these two factors, the Board concludes claimant's work more probably than not caused, aggravated, accelerated, or intensified the neck injury. Accordingly, claimant is entitled to the preliminary hearing benefits ordered.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the preliminary hearing Order entered by Administrative Law Judge John D. Clark on August 5, 1999, should be, and the same is hereby, affirmed.

IT IS SO ORDERED.

Dated this ____ day of October 1999.

BOARD MEMBER

c: David H. Farris, Wichita, KS
P. Kelly Donley, Wichita, KS
John D. Clark, Administrative Law Judge

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Philip S. Harness, Director